

# TECHNICAL MEMORANDUM


## Utah Coal Regulatory Program

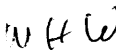
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September 29, 2006

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TO: Internal File

THRU: Pamela Grubaugh-Littig, Permit Supervisor 

FROM: Wayne H. Western, Team Lead 

RE: Phase III Bond Release Utah American Energy, Inc., Horse Canyon Mine, C/007/0013, Task ID #2573

### SUMMARY:

On January 3, 2006, the Division received a request for Phase III bond release for the main facilities in Part A. The Permittee requested Phase III bond release on the following areas:

- 51.56 acres that have gone through Phase I and Phase II bond release.
- 6.5 acres associated with the borrow site.
- 16.18 acres that were given an alternative postmining land use change.
- 0.02 acres associated with a bridge abutment, left unreclaimed at the request of the County.

On July 10, 2006, the Division received additional information about the Phase III bond release application. Part of the application called for a modification of the acres for which bond release is sought.

- 51.07 acres that have gone through Phase I through Phase I and Phase II bond release.
- 6.5 acres associated with the borrow site.
- 16.18 acres that were given an alternative postmining land use change.
- 0.02 acres associated with a bridge abutment, left unreclaimed at the request of the County.
- 73.77 total acres.

The Permittee will hold back 0.49 acres associate with the channel and access road from bond release.

This memo deals with engineering and bonding issues.

TECHNICAL MEMO

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**TECHNICAL ANALYSIS:**

**RECLAMATION PLAN**

**GENERAL REQUIREMENTS**

Regulatory Reference: PL 95-87 Sec. 515 and 516; 30 CFR Sec. 784.13, 784.14, 784.15, 784.16, 784.17, 784.18, 784.19, 784.20, 784.21, 784.22, 784.23, 784.24, 784.25, 784.26; R645-301-231, -301-233, -301-322, -301-323, -301-331, -301-333, -301-341, -301-342, -301-411, -301-412, -301-422, -301-512, -301-513, -301-521, -301-522, -301-525, -301-526, -301-527, -301-528, -301-529, -301-531, -301-533, -301-534, -301-536, -301-537, -301-542, -301-623, -301-624, -301-625, -301-626, -301-631, -301-632, -301-731, -301-723, -301-724, -301-725, -301-726, -301-728, -301-729, -301-731, -301-732, -301-733, -301-746, -301-764, -301-830.

**Analysis:**

The Permittee did not meet the general requirements for Phase III bond release.

*I General Requirements for Bond Release*

Certification: The Permittee did met the certification requirements because they did provide an affidavit with a notarized signature by a responsible official of the permittee, certifying that the information contained in the request is true and correct to the best of the official's information and belief; and all applicable reclamation activities have been accomplished in accordance with the requirements of the Act, the Regulatory Program,

Newspaper Advertisement: The Permittee provided a copy of the newspaper advertisement for Phase III bond release. The newspaper advertisement did contain all of the required information.

Notification Letters: The Permittee did met the requirements for providing copies of the notification letters sent to all parties who have a valid interest in the bond release

*II GENERAL TECHNICAL REQUIREMENTS*

The Permittee met the general requirements for bond release. How the Permittee meet the specific requirements of bond release are addressed in other sections of the TA.

*III GENERAL ALTERNATIVE POSTMINING LAND USE*

The Permittee did not meet the requirements for Phase III bond release on the 0.02 acres because the area has not yet been approved by the Division for an alternative postmining land use.

The Permittee meet the requirements for Phase III bond release on the 16.18 acres that they deeded to CEU.

The Permittee did not present the information in the bond release in a clear and concise manor. On page 3, fourth paragraph, the Permittee states that the Horse Canyon road was a public road before SMCRA became law. However, in the opening paragraph of page 3, the Permittee states that in 1995, the road was deeded to Emery County. Therefore, the Horse Canyon road could not have been a pre-SMCRA public road.

### **Findings:**

The information provided in the bond release package is not considered adequate to meet the requirements of this section.

**R645-301-121.200**, The Permittee must state on page 3 of the submittal that the Horse Canyon road became a public road in 1995 (turned over to Emery County) instead of saying that the road was a public road before SMCRA. The Horse Canyon road is part of the permit area. The Division approved a change in the postmining land use (industrial) for the road. The Permittee needs to go through bond release have the area removed from the permit area.

**R645-301-542.620**, The Permittee show that the bridge abutments are stable and amend the MRP so that the abutments are included in the postmining land use. Priscilla Burton of the Division contacted the County about the bridge abutments. The County found that one abutment is unstable and must be removed. The Permittee must either remove the abutment or show that it is stable. In addition, the Permittee show that the County is willing to take on the liability of the abutment(s) at time of bond release

## **POSTMINING LAND USES**

Regulatory Reference: 30 CFR Sec. 784.15, 784.200, 785.16, 817.133; R645-301-412, -301-413, -301-414, -302-270, -302-271, -302-272, -302-273, -302-274, -302-275.

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TECHNICAL MEMO

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**Analysis:**

The Permittee did not include in the bond release package a detailed description of postmining land uses for each of the four areas. The four areas associated with the Phase III bond release are:

- 51.07 acres that have gone through Phase I through Phase I and Phase II bond release. The postmining land use is wildlife and grazing.
- 6.5 acres associated with the borrow site. The postmining land use is wildlife and grazing.
- 16.18 acres that were given an alternative postmining land use change. The postmining land use is industrial, recreation.
- 0.02 acres associated with a bridge abutment, left unreclaimed at the request of the County. On page III-3 of the MRP, the Permittee states that the planned postmining land use is for wildlife habitat. In order for the bridge abutments to be left after Phase III reclamation the postmining land use must be changed to industrial.

On page III-3 of the MRP, the Permittee states that the planned postmining land use will be for wildlife habitat. The Permittee needs to update the information to show when the changes to the postmining land use were approved and what the alternative postmining uses are.

**Findings:**

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

**R645-301-542.620**, The Permittee must show that the bridge abutments are part of the postmining land use. The Permittee must show that the bridge abutments are part of the postmining land use in the MRP, or they must amend the MRP to include the bridge abutments. On page III-3 of the MRP, the Permittee states that the planned postmining land use is for wildlife habitat. In order for the bridge abutments to be left after Phase III reclamation the postmining land use must be changed to industrial.

**R645-301-121.100**, The Permittee must update the postmining land use information in Section 3.2 of the MRP. The Permittee must divide the bonded areas into subsections; state what the approved postmining land use is and when the change was made.

## APPROXIMATE ORIGINAL CONTOUR RESTORATION

Regulatory Reference: 30 CFR Sec. 784.15, 785.16, 817.102, 817.107, 817.133; R645-301-234, -301-412, -301-413, -301-512, -301-531, -301-533, -301-553, -301-536, -301-542, -301-731, -301-732, -301-733, -301-764.

### Analysis:

The Permittee not met the approximate original contour requirements. The requirements for the approximate original contour requirements were addressed as follows:

- 51.07 acres that have gone through Phase I through Phase I and Phase II bond release. During the Phase I bond release, the Division determined that the area meet the AOC requirements.
- 6.5 acres associated with the borrow site. Since the area was never disturbed, the site is in the original contours.
- 16.18 acres that were given an alternative postmining land use change. The postmining land use is industrial, recreation. The Division found during the change in the postmining land use that the site meets the AOC requirements because the site is stable and complements the surrounding drainages. The Permittee states that since the area was never disturbed that the AOC requirements do not apply. The AOC requirements do apply. If the site was never disturbed then the Permittee needs to state that the site is stable and blends into the surrounding drainages and is compatible with the postmining land use.
- The Permittee stated on page 5 of the bond release submittal that since the road is public... the area meets the approximate original contours. Being a public road does not mean that the area meets the AOC requirements. The Permittee needs to state how the area meets those requirements. For example, the area is stable and the abutments do not interfere with the drainage and then an explanation of why. The Permittee must address the AOC requirements on the 0.02 acres associated with a bridge abutment.

### Findings:

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

**R645-301-553.100**, The Permittee must include information in the bond release package on why the 0.02-acre area met the AOC requirements. On page 5 of the bond release package, the Permittee states, "That since the road is public... the area meets the approximate original contours". Being a public road does not mean that the area meets the AOC requirements. The Permittee needs to state how the area meets those requirements. For example, the area is stable and the abutments do

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**TECHNICAL MEMO**

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not interfere with the drainage and then an explanation of why. In addition the Permittee must also address the AOC requirements for the 6.5 acre area. The statement that since the area was not disturbed means that the AOC requirements do not apply is false. The AOC requirements do apply. A statement about how the area is stable, blends into the surrounding drainages and is compatible with the postmining land use is one way to address the issue.

## **BACKFILLING AND GRADING**

Regulatory Reference: 30 CFR Sec. 785.15, 817.102, 817.107; R645-301-234, -301-537, -301-552, -301-553, -302-230, -302-231, -302-232, -302-233.

### **Analysis:**

#### **General**

The Permittee did meet the general requirements for backfilling and grading. The Division found during the Phase I bond release that the 51.56 acre area met the backfilling and grading requirements. The Division also made the finding during the postmining land use change on the 16.18 acres deeded to CEU met the backfilling and grading requirements.

The Permittee did not state in the bond release package how the 6.5 acre area of the 0.02 acre area meet the backfilling and grading requirements. The general requirements are:

- Eliminate all highwalls, spoil piles and depressions.
- Achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long term static safety factor of 1.3 and to prevent slides.
- Minimize erosion and water pollution both on and off the site.
- Support the approved postmining land use.

#### **Previously Mined Areas**

There are no previously mined areas for which the Permittee sought exemptions to the general backfilling and grading requirements.

### **Findings:**

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

**R645-301-880.310 and R645-301-880.320**, The Permittee must show how they met all of the requirements for Phase I and Phase II bond release on the 6.5 acre area that was not part of the Phase I and Phase II bond release and the 0.02 acre area associated with the bridge abutments. The backfilling and grading requirements are: • eliminate all highwalls, spoil piles and depressions, • achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long term static safety factor of 1.3 and to prevent slides, • minimize erosion and water pollution both on and off the site and • support the approved postmining land use.

## MINE OPENINGS

Regulatory Reference: 30 CFR Sec. 817.13, 817.14, 817.15; R645-301-513, -301-529, -301-551, -301-631, -301-748, -301-765, -301-748.

### Analysis:

The Permittee did not address this issue. The Permittee must include how all mine openings were closed. The Permittee must include a proposal on how they will reclaim the Lila Canyon Portals.

### Findings:

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

**R655-301-542.710 and R645-301-551**, The Permittee must include a narrative that states how the Lila Canyon Portals will be closed. The Division needs that information to make a finding on reclamation.

## ROAD SYSTEMS AND OTHER TRANSPORTATION FACILITIES

Regulatory Reference: 30 CFR Sec. 701.5, 784.24, 817.150, 817.151; R645-100-200, -301-513, -301-521, -301-527, -301-534, -301-537, -301-732.

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TECHNICAL MEMO

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**Analysis:**

**Reclamation**

The Permittee did not meet this requirement. The Permittee states on page 11 of the bond release application that all roads were reclaimed except the Horse Canyon public road. The Permittee must be consistent with the road name. In Appendix III-9, Emery County refuses to the road as the Range Creek Road.

However, on page 4 of the bond release package, the Permittee states that there are roads within the 16.18 acre area and Map III-2G shows a road in the yellow area (Phase III bond release area.) must state what roads if any were reclaimed.

**Retention**

The Permittee meet this requirement. The Range Creek Road was retained because it is a public road.

**Findings:**

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

**R645-301-542.600**, The Permittee must either reclaim all roads not approved for retention under the postmining land use plan or change the postmining land use plan to include their retention. There are several roads or what appear to be roads in the bonded area associated with the borrow pit. The Permittee must either explain why the roads were not reclaimed (document that the roads were never used for mining and reclamation) or reclaim the roads or retain the roads as part of the postmining land use.

**R645-301-121.200**, The Permittee must be consistent with the name of the public road that goes through the Horse Canyon Mine. The Permittee refers to the road as the Horse Canyon Mine in the bond release package while in the MRP the Permittee refers to the road as the Range Creek road.

**MAPS, PLANS, AND CROSS SECTIONS OF RECLAMATION  
OPERATIONS**



**Analysis:**

**Affected Area Boundary Maps**

The affected area boundaries are shown on several maps in the MRP.

**Bonded Area Map**

The Permittee did not meet the requirements of this section. The Permittee must include in the bond release application maps that show the disturbed area boundaries and the relationship between the disturbed area boundaries and the permit area.

**Reclamation Backfilling And Grading Maps**

The Permittee did not meet the requirements of this section. The Permittee must include cross sections for the reclaimed area. The Division needs this information to show that all the requirements were met.

**Reclamation Facilities Maps**

The Permittee did not meet the requirements of this section. The Permittee must identify each facility that will be left as part of the alternative postmining land use along with any structures or facilities within the reclaimed area.

**Final Surface Configuration Maps**

The Permittee met the requirements of this section by providing Drawings III-2A through III-2G. The maps show the final surface configuration of the areas proposed for bond release.

**Reclamation Surface And Subsurface Manmade Features Maps**

The Permittee must show the surface and subsurface manmade features that will be left after bond release.

**Certification Requirements.**

The Permittee did not meet the certification requirements. The seals on the maps were smaller than allowed and were not signed and dated.

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TECHNICAL MEMO

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**Findings:**

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

**R645-301-542.200** The Permittee must include as built maps and cross sections for the areas that were no part of the Phase II bond release.

**R645-301-542.320** The Permittee must label and show all surface and subsurface manmade features that they will leave at Phase III bond release.

**BONDING AND INSURANCE REQUIREMENTS**

Regulatory Reference: 30 CFR Sec. 800; R645-301-800, et seq.

**Analysis:**

**General**

On February 25, 2004, the Division approved an alternative postmining land use change 16.18 disturbed acres. The alternative postmining land use change involved a donation of 896.13 acres, including 16.18 disturbed acres to the College of Eastern Utah Foundation. The transfer took place on September 13, 2005.

In addition to the land, the Permittee also donated the following:

- Sedimentation Pond #2 (including associated drainage features.)
- Pump house.
- Office building.
- Bath house.
- Warehouse.
- Shop.
- Chain link fence.
- Building pads.
- Parking lot.
- Powder magazine.
- Cap magazine.
- Water tank.
- Portal pad.

**TECHNICAL MEMO**

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The Permittee did meet the requirements to show that a maintenance agreement had been signed by the College of Eastern Utah. See page 3 of asset assignment agreement.

**Determination of Bond Amount**

At the end of the Phase III bond release process all the bond on the Phase III areas will be released.

The Permittee must include detailed reclamation cost estimate to reclaim all areas not included in the Phase III bond release. Those areas include but are not limited to the 0.49 acres channel area, the Lila portal area and the bridge abutment area.

**Terms and Conditions for Liability Insurance**

The Permittee will continue to have liability insurance as required for the Lila Canyon project.

**Findings:**

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

**R645-301-830.140 and R645-301-880.120** The Permittee provide detailed reclamation cost estimates for all areas not included in the Phase III bond release. Those areas include but are not limited to the 0.49 acres channel area, the Lila portal area and the bridge abutment area. Until the Permittee includes detailed reclamation cost estimates, the Division cannot approve the public notice. The public notice must include information on how much bond will be released. The Division cannot approve the amount until they have detailed cost estimates.

**RECOMMENDATIONS:**

The Division should deny the application until the Permittee meets all of the above mention deficiencies.